

BEFORE THE

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the Matter of	)	CLEAN UP AND
	)	ABATEMENT ORDER
OXFORD TIRE RECYCLING OF NORTHERN	)	NO. 98-26
CALIFORNIA, INC.	)	
EDWARD FILBIN, PROPERTY OWNER	)	PUBLIC RESOURCES
	)	CODE (PRC) SECTION
RE: THE OPERATION OF THE OXFORD TIRE	)	42845
RECYCLING, INC., FACILITY NO. 50-TI-0010.	)	
	)	
	)	

**TO:** Oxford Tire Recycling of Northern California, Inc., in care of Prentice-Hall Corporation System, Inc., 2730 Gateway Oaks Dr., Suite 100, Sacramento, CA 95833, and Edward Filbin, property owner, P.O. Box 870, Westley, CA. 95387:

**PLEASE TAKE NOTICE THAT:**

WHEREAS Oxford Tire Recycling of Northern California, Inc. (hereinafter referred to as Oxford), a waste tire facility (WTF), is located at 4549 Ingram Creek Road, Westley, California; and

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1           WHEREAS the California Integrated Waste Management Board  
2 (hereinafter referred to as the CIWMB) issued to Oxford Major WTF  
3 Permit 50-TI-0010 on May 8, 1996; and,  
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5           WHEREAS the legal description of Oxford's facility in Permit  
6 50-TI-0010 states that the permitted area consists of the County  
7 designated PD-91 leasehold as of September 1, 1995, including  
8 waste tires stored to the north and east of PD-91, but excluding  
9 waste tires stored to the south of PD-91 and in the Tire Delivery  
10 Area defined as areas E2 and F2 in the November 2 1995, report  
11 entitled Oxford Scrap Tire Site Volume Study, Westley,  
12 California, prepared by Psomas and Associates; and,  
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14           WHEREAS the CIWMB issued Cleanup and Abatement Order No. 97-  
15 17 on April 30, 1997, prohibiting the further accumulation and  
16 stockpiling of waste tires at the facility and requiring that the  
17 existing stockpile be remediated; and,  
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19           WHEREAS on June 27, 1997, Modesto Energy Limited Partnership  
20 (hereinafter referred to as MELP) entered into an agreement with  
21 the CIWMB (MELP/CIWMB Agreement) to remove and incinerate 40,000  
22 tons of waste tires from the Oxford stockpile by June 27, 1998;  
23 and  
24

25           WHEREAS Oxford entered into an agreement with the CIWMB  
26 (Oxford/CIWMB Agreement) on July 28, 1997, for the remediation of  
27 the Oxford facility; and

1           WHEREAS the Oxford/CIWMB Agreement requires Oxford to  
2 remediate the remaining stockpile of waste tires at the Oxford  
3 facility within 14 months of the removal of 40,000 tons of waste  
4 tires by MELP under the MELP/CIWMB Agreement; and,  
5

6           WHEREAS the CIWMB conducted a new topographical survey of  
7 the Oxford stockpile in January 1998 for the purpose of  
8 administering the MELP/CIWMB Agreement; and  
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10          WHEREAS the results of the survey indicate that the  
11 remaining quantity of waste tires in Oxford's stockpile may be as  
12 high as 74,000 tons after MELP completes the removal of the first  
13 40,000 tons, which is expected to occur in June 1998; and  
14

15          WHEREAS the CIWMB has authority to act as the enforcement  
16 agency for this waste tire facility pursuant to Public Resource  
17 Code 42800 et seq.; and  
18

19          WHEREAS the CIWMB has the authority to order WTF operators  
20 who are in violation of the aforementioned regulation to clean up  
21 waste tire piles, abate the effects thereof, or otherwise  
22 remediate a case of threatened pollution or nuisance pursuant to  
23 PRC, section 42845(a); and  
24

25          WHEREAS the CIWMB has authority to seek civil penalties not  
26 to exceed ten thousand dollars (\$10,000) for each violation of a  
27 separate provision or, for continuing violations, for each day  
that violation continues, against any person who intentionally or  
negligently violates any provision of this chapter, or any

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1 permit, rule, regulation, standard, or requirement issued or  
2 adopted pursuant to this chapter as provided in PRC section  
3 42850;

4  
5 **THEREFORE, PURSUANT TO SECTION 42845, YOU ARE ORDERED TO:**

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7 1. Submit to the CIWMB a complete and correct Closure Plan  
8 within 30 days of the issuance date of this Order. The Closure  
9 Plan shall be subject to approval by the CIWMB. The Closure Plan  
10 shall include:

11 (a) A closure schedule based on the Oxford/CIWMB  
12 Agreement, which prescribes a 14-month remediation  
13 period commencing on the date that MELP has removed  
14 40,000 tons of waste tires under the MELP/CIWMB  
15 Agreement. The closure schedule shall contain  
16 milestones for the remaining quantity of waste tires in  
17 the Oxford stockpile. Each milestone shall include  
18 quantities of waste tires removed during that period in  
19 either tons or specific segments of the stockpile, and  
20 shall be approved by CIWMB staff. The closure schedule  
21 shall be based on the following order of remediation of  
22 waste tires from the stockpile (area designations are  
23 based on the nomenclature used in Exhibits C through G  
24 of the November 2, 1995, report entitled Oxford Scrap  
25 Tire Site Volume Study, Westley, California, prepared  
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1  
2 by Psomas and Associates (attached):

- 3                   1. First area for removal                   M  
4                   2. Second area for removal                   A  
5                   3. Third area for removal                   C  
6                   4. Fourth area for removal                   G

7  
8                   The order of the remediation of the remaining areas in  
9                   the stockpile shall be determined by CIWMB staff.  
10                  Oxford shall remove waste tires of all sizes for  
11                  remediation as they are encountered in the stockpile.

12  
13                  (b) Details of the final disposition of the all waste  
14                  tires, including oversized tires (waste tires larger  
15                  than 52 inches x 19 inches) as discussed in Part B of  
16                  the Closure Plan Form (CIWMB 504 (10/92)).

17  
18                  (c) A closure cost estimate that itemizes the closure  
19                  costs as described in Closure Plan Form CIWMB 504  
20                  (attached). The estimate shall be based on either  
21                  CIWMB's new survey as presented in the Board's February  
22                  1998 Board meeting agenda item or another estimate  
23                  submitted by Oxford. In the latter case, Oxford shall  
24                  provide a detailed technical basis for its estimate.  
25                  The closure estimate shall differentiate the costs for  
26                  remediating both normal and oversized waste tires.

1 (d) Other requirements as specified in Part "B" of Form  
2 CIWMB 504.

3 2. Further, if the Closure Plan to be submitted by Oxford  
4 has not been approved by the CIWMB by the date that Oxford is to  
5 commence removing waste tires under the Oxford/CIWMB Agreement  
6 (Condition No. 8), then Oxford shall commence remediating 1/14 of  
7 74,000 tons (5286 tons) each month until Oxford's Closure Plan  
8 has been approved by the CIWMB. The order in which areas of the  
9 stockpile shall be remediated is presented in Paragraph (a),  
10 above. Destination facility(s) selected by Oxford shall comply  
11 with Section 18441(a)(3), Chapter 6, Division 7, Title 14 of the  
12 California Code of Regulations.

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14 3. Submit to the CIWMB a revised financial assurance  
15 demonstration within 60 days of written approval by the CIWMB of  
16 aforementioned Closure Plan to be submitted. If a Closure Plan  
17 has not been submitted by Oxford within the time period  
18 prescribed in Condition No. 1, above, then a revised financial  
19 assurance demonstration shall be submitted by Oxford within 60  
20 days of the receipt of a written Closure Plan developed by the  
21 CIWMB.

22  
23 4. In the event that Oxford wishes to continue its waste  
24 tire operation at its facility after the present stockpile has  
25 been eliminated, Oxford shall submit a revised waste tire  
26 facility permit application by the end of the 7th month of the  
27 14-month closure period.

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1           5.    OTR agrees not to accept or permit further deliveries  
2 of Transient Tires of any size or type whatsoever to or at the  
3 OTR facility in accordance with Condition No. 8 of the  
4 Oxford/CIWMB Agreement.  
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6           6.    Any violation of the requirement(s) of this Clean Up  
7 and Abatement Order shall constitute the basis for consideration  
8 of revocation of WTF Permit 50-TI-0010.

9   **PLEASE TAKE FURTHER NOTICE THAT PURSUANT TO PRC SECTIONS 42845 and**  
10 **42850**, if the above actions are not completed or complied with by  
11 the specified dates, the CIWMB may petition the superior court for  
12 injunctive relief to enforce this order and for civil penalties in  
13 the amount of \$10,000 per day for each violation pursuant to PRC  
14 sections 42845 and 42850.

15           Liability for civil penalties may be imposed in a civil  
16 action or may be imposed administratively pursuant to PRC section  
17 42850 et seq.

18           Further, failure to remove the specified amount of waste  
19 tires by the required date may result in the CIWMB expending  
20 available funds to perform any clean-up, abatement, or remedial  
21 work required under the circumstances set forth in PRC sections  
22 42845 et seq. which, in the judgement of the CIWMB, is required by  
23 the magnitude of endeavor or the need for prompt action to prevent  
24 substantial pollution, nuisance, or injury to the public health or  
25 safety.  
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1        If the CIWMB expends funds to perform any clean-up,  
2 abatement, or remedial work, the CIWMB may seek cost reimbursement  
3 from the operator or owner pursuant to PRC section 42847.

4        Nothing in this Clean Up and Abatement Order shall constitute  
5 or be construed as a satisfaction or release from liability for  
6 any conditions or claims arising as a result of past, current, or  
7 future operations of Respondents. Notwithstanding compliance with  
8 the terms of this Clean Up and Abatement Order, Respondents may be  
9 required to take further actions as are necessary to protect  
10 public health or welfare or the environment.

11       The CIWMB shall not be liable for injuries or damages to  
12 persons or property resulting from acts or omissions by  
13 Respondents or related parties in carrying out activities pursuant  
14 to this Clean Up and Abatement Order, nor shall the CIWMB be held  
15 as a party to any contract entered into by Respondents or their  
16 agent(s) in carrying out activities pursuant to the Clean Up and  
17 Abatement Order.

18       This Clean Up and Abatement Order does not relieve the  
19 operator or property owner from complying with all other local,  
20 state, federal requirements, or the Oxford/CIWMB Tire Pile  
21 Remediation Agreement dated July 28, 1997.

22       This Clean Up and Abatement Order may only be amended in  
23 writing by an appropriate representative of the CIWMB.  
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1           Clean Up and Abatement Order 97-17 dated April 30, 1997,  
2 addressed to Mr. Mark Kirkland, President of Oxford Tire Recycling  
3 and Edward Filbin, property owner, is hereby rescinded.  
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5  
6 DATED:       April 6, 1998  
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9                               *Dorothy Rice*  
10                              \_\_\_\_\_  
11                              Dorothy Rice, Deputy Director  
12                              Permitting & Enforcement Division  
13                              California Integrated Waste Management Board  
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